IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25/09/2002

Coram

The Honourable Mr. Justice V.S.SIRPURKAR
and
The Honourable Mr. Justice F.M. IBRAHIM KALIFULLA

W.P. No.21648 OF 2002

Dr. G. Kannappan
Retired Principal
Tamil Nadu Government
Dental College and Hospital
Chennai ..... Petitioner

-Vs-

1. Government of Tamil Nadu
rep. by its Secretary
Health and Family Welfare Dept.
Chennai-9

2. The Director of Medical Education
Chennai-10

3. The Registrar
Tamil Nadu Administrative Tribunal
Chennai-104 ..... Respondents

Petition under Art.226 of the Constitution of India
praying for a Writ of Certiorarified Mandamus
to quash the order passed in R.A. No.93 of 96
in O.A. No.5050 of 1993

!For Petitioner :: Mr.M.Venkatachalapathy,SC
for Mr.A.L.N.Namasivayam

^For Respondents :: Mr. S.T.S. Murthy, Spl.GP

:ORDER

(Order of the Court was made by V.S. SIRPURKAR, J.)
Rule returnable forthwith. Learned Special Government Pleader takes notice.

2. Petitioner comes up against the dismissal of the review petition

by the Tamil Nadu State Administrative Tribunal. In the original application, the Tribunal had granted certain reliefs to the petitioner but had refused to give the relief of special pay of Rs.150/- per month between 1-11-1990 and 31-12-1992 on the ground that G.O.Ms. No.13 6, Finance (Pay Cell) Department, dated 25-2-1993, which permitted such pay was prospective in its operation and it became applicable only from 25-2-1993. This order of the Tribunal was sought to be reviewed on the ground that the Tribunal had not correctly interpreted the said Government Order and the Government Order should not have been prospective but it should have been retrospective particularly in view of the Government's letter No.32545/31/89 dated 5-4-1989. It was tried to be suggested before the Tribunal that the petitioner was doing the teaching duties besides holding the post of Principal and, therefore, under the aforementioned Government Order, he was entitled to such special pay.

3. There can be no doubt that before the Tribunal the case was that the petitioner was entitled to the special pay on the basis of G.O. No.136. The Tribunal came to the conclusion that the said Government Order cannot be pressed into service and what was being tried to be done by the review application was to change the order passed by the Tribunal.

4. The learned counsel contended that the Tribunal was not correct in dismissing the review application. In our opinion, there was nothing suggested by way of review application which was left out by the Tribunal while passing the original order. The said G.O.No.136 was very much there and the Tribunal interpreted the same on the basis of the language therein that it was prospective in operation and would cover the period only after 25-2-1993. What was sought to be argued before the Tribunal was that the Government was not right in making this Government Order prospective but it should have made it retrospective so as to cover the case of the review-petitioner also. This cannot be a ground on which the review could have been sought from the Tribunal. What was being done under the garb of review was to change the finding of the Tribunal that G.O.No.136 was prospective and not retrospective. In our opinion, the review application itself did not show anything which would have entitled the Tribunal to review its own order. The principles of review are quite different. Under that in order to review the judgment, the petitioner should have been able to show some glaring mistake or error on the part of the Tribunal that too, on the admitted position of facts. Such thing was not available to the petitioner in the present case and, therefore, in our opinion, the Tribunal was right in dismissing the review petition.

5. The writ petition has no force. It is dismissed. No costs.

Index:Yes
Website:Yes
Jai

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